

**U.S. Department of Labor**

Mine Safety and Health Administration  
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June 28, 2007

MEMORANDUM FOR ALL MSHA EMPLOYEES

FROM:

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RICHARD E. STICKLER  
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Mine Safety and Health

SUBJECT: Internal Review Reports

Today, MSHA released internal review reports that evaluate MSHA's actions prior to the tragic accidents at the Sago Mine, Aracoma Alma Mine #1, and Darby No. 1 Mine. I have examined the reports and concur with the conclusions of the review teams and the recommended actions presented in each report. These three reviews show an unacceptable lack of accountability and oversight that will not be tolerated. To this end, I directed MSHA's senior managers to review the reports and to develop a corrective action plan that addresses the issues raised in each. I agree with the corrective actions they have proposed and have directed that their action plans be implemented without delay. These corrective actions will have my continued personal attention. As such, I encourage every MSHA employee to read these reviews, with special emphasis on the corrective action plans. The reports are available on MSHA's website at:

<http://www.msha.gov/InternalReviews2007.asp>

The internal review teams did not find evidence that MSHA's actions caused the fatal accidents at the three mines, although at Aracoma the inactions of MSHA personnel contributed to the severity of the accident. Nevertheless, the internal reviews identified several significant deficiencies in MSHA's accountability and performance that must be corrected. At my direction, each internal review team conducted an analysis of each deficiency to identify its root causes and to provide recommendations for eliminating recurrence of each deficiency. Principal findings of the root cause analyses are summarized below:

- The failure of inspectors and specialists to follow established inspection procedures coupled with inadequate supervisory, managerial, and headquarters oversight resulted in many of the deficiencies identified in the reports.
- Ineffective use of the Performance Management System permitted poor performance to continue uncorrected.

- MSHA's Accountability Program effectively identified weaknesses in enforcement activities, but did not adequately identify root causes and eliminate recurrence of those weaknesses.
- MSHA did not recognize that the 20 pound per square inch (psi) pressure criterion used for the approval of alternative seals was inadequate.
- MSHA did not recognize the potential for significant problems from faulty seal construction. In the past, some alternative seals subject to explosions had failed due to faulty construction.
- Defects in the construction of alternative seals were not always identified by MSHA during inspections.
- MSHA did not take action to address the potential for lightning to provide a source of ignition for explosions in sealed areas. The potential for electromagnetic energy created by a horizontal lightning discharge to radiate through earth and induce a voltage in a conductor was not recognized.
- Inspector evaluations of gravity and negligence for enforcement actions were adversely influenced by decisions made by Conference Litigation Representatives in prior safety and health conferences.
- MSHA's mine emergency response capabilities and procedures need to be improved.
- In some cases, procedural instructions were either unclear or outdated and need to be revised. In other cases, inspectors need to be retrained in specific inspection procedures.

I believe the tools that are already in place, if effectively used, should have prevented many of the weaknesses discovered by the review teams. For the most part, inspection policies and procedures are clear and well understood by enforcement personnel. Inspector training is comprehensive. The Accountability Program effectively identifies weaknesses in MSHA's enforcement activities. The Performance Management System gives supervisors and managers tools to identify and resolve weak performance on the part of their subordinates. Data are available that would have identified some of the deficiencies identified by the internal reviews.

Several deficiencies recognized by the internal review teams have already been addressed either by MSHA or through legislation. A description of actions the Agency has already taken follows.

- On March 9, 2006, MSHA issued the Emergency Mine Evacuation rule, as an Emergency Temporary Standard, prior to the enactment of the MINER Act,

which required prompt incident notification, mandatory lifelines in mines, training, increased quantities of Self-Contained Self-Rescue devices, and for mine operators to report updated SCSR inventories on a quarterly basis.

- On July 19, 2006, the Agency issued a Program Information Bulletin (PIB) which increased the strength requirements of alternative mine seals from 20 psi to at least 50 psi.
- By August 14, 2006, mine operators were required to submit and comply with Emergency Response Plans (ERPs).
- In August 2006, the Agency began distributing a new informational sticker that emphasizes that miners should barricade only when all escapeways and alternate entries are blocked.
- On December 8, 2006, MSHA promulgated the Final Rule for Emergency Mine Evacuations.
- On February 8, 2007, the Agency issued a PIB addressing the MINER Act requirement to provide breathable air to trapped miners.
- On March 22, 2007, MSHA published a final rule that became effective on April 23, 2007. This rule revised the Agency's existing civil penalty assessment regulations and codified MINER Act provisions establishing the maximum penalty for flagrant violations and minimum penalties for unwarrantable failure and immediate notification violations.
- On March 28, 2007, MSHA began production and distribution of Key Indicator reports which identify issues related to enforcement activities. These reports are shared with all levels of the management and inspector ranks.
- On May 8, 2007, MSHA created two high-level positions within its Mine Emergency Operations division. The new mine emergency operations manager will be responsible for planning and directing mine emergency preparedness and serve as the technical authority and logistical expert during all MSHA mine emergency responses.
- On May 22, 2007, MSHA issued an Emergency Temporary Standard on Sealing of Abandoned Areas. The standard includes requirements to strengthen the design, construction, maintenance, and repair of seals, as well as requirements for sampling and controlling atmospheres behind seals. The standard addresses the majority of the internal review recommendations pertaining to seals.
- On June 14, 2007, MSHA sent letters to eight mine operators putting them on notice that they have a potential Pattern of Violations of mandatory health or

safety standards under Mine Safety and Health Act. These eight operations represent the first mines to receive such letters under MSHA's enhanced enforcement initiative.

- On June 28, 2007, I established a new Office of Accountability. The Office will report directly to me and will be responsible for ensuring that weaknesses identified by Agency accountability reviews are fully and permanently corrected.
- In addition, MSHA has considered the full range of disciplinary actions and has initiated appropriate personnel actions to address the issues identified in the internal reviews including the performance of MSHA personnel.

The corrective action plan developed in response to the internal reviews is comprehensive. Nevertheless, I have directed the following additional measures to ensure that the plan is fully implemented.

- On July 11 and 12, 2007, all Coal Mine Safety and Health supervisors and managers will be given a detailed briefing on the findings of the internal reviews and the actions necessary to correct the deficiencies identified. I will personally meet with the supervisors and managers to stress the critical importance of making permanent changes that will prevent these deficiencies from reoccurring.
- I have directed that the performance plans for managers and supervisors be revised by October 1, 2007, to focus on critical aspects of their jobs and to increase their accountability for the performance of their subordinates. These modified performance standards will include elements dealing directly with 1) increased accountability and 2) supervisory oversight responsibilities.

The internal review reports should make it clear to everyone that there were significant shortcomings in the way MSHA discharged its responsibilities at the three mines where these tragic accidents occurred. Accordingly, I ask that every Agency employee join me in accepting the responsibilities of our jobs, making full use of the tools that have been provided, and dedicating ourselves to providing the highest level of service to the Nation's miners.